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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,031	09/19/2001	Takafumi Fukumoto	50203-135	8290

7590 12/29/2003

McDermott, Will & Emery  
600 13th Street, N.W.  
Washington, DC 20005-3096

EXAMINER

VO, HIEN XUAN

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/955,031

Applicant(s)

FUKUMOTO, TAKAFUMI

Examiner

Hien X. Vo

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/22/2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 12-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Notice to Applicant(s)*

1. This application has been examined. Claims 1-17 are pending.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 (lines 5-6), 9 (lines 5-6) and 10 (line 5) recites the limitation "said post-converted calibrating file". There is insufficient antecedent basis for this limitation in the claim.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in--

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was

published under Article 21(2)(a) of such treaty in the English language;  
or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-2, and 9-11 are rejected under 35 U.S.C. § 102(e) as being anticipated by Joyce et al. (U.S. Patent No. 6,550,052).

With respect to claims 1 and 9, Joyce et al. discloses the software development framework for constructing embedded vehicle controller software including a conversion unit for converting source files into a calibrating file (see e.g. Fig.1, col. 1, lines 26-29 and col. 2, lines 50-62), the source file being necessary for operating the control unit and being added with data specification information required for the conversion into the calibrating file (see e.g. col. 6, lines 1-29) and a calibration unit for performing calibration based on the post-converted calibrating file to output a calibration result (see e.g. col. 1, lines 29-37).

With respect to claims 2 and 11, Joyce et al. disclose the invention as claimed including the data specification information is directly described in a data file among the source file (see e.g. col. 2, lines 5-10).

With respect to claim 10, Joyce et al. disclose the invention as claimed including the step of adding the data specification information required for conversion into a

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calibrating file to source file necessary for operating the control unit (see e.g. col. 3, lines 34-50), converting the source files into a calibrating file (see e.g. Fig.1, col. 1, lines 26-29 and col. 2, lines 50-62) and performing calibration based on the post-converted calibrating file to output a calibration result (see e.g. col. 2, lines 1-10).

#### ***Allowable Subject Matter***

5. Claims 3-8, and 12-17 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicant's arguments filed on 09/22/2003 have been fully considered but they are not persuasive.

The applicant argued that the prior art of record (Joyce et al.) fails to teach or anticipated the claimed subject matter in the independent claims 1, 9 and 10.

The examiner disagrees because Joyce et al. teach and anticipated the claimed language/subject matter by teaching the data dictionary 20 also provides a calibration definition file 22 to a calibration repository 40. The data dictionary 20 is

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capable of generating other types of reports and output files, including files that used by various industry standard software development and calibration tools (see e.g. col. 3, lines 5-15). The calibration repository 40 is used to maintain vehicle calibration information encapsulated in the object code 16. For each application, the calibration repository 40 stores its object code and multiple sets of vehicle calibratable information (see e.g. col. 3, lines 34-65). Also, the calibration repository 40, the data dictionary 20 and the object code 16 as taught by Joyce that required for converting source files into a calibration file be add to the source files because in order to generate an output file, an application extraction module 82 first reads a compiler link map 84 that corresponds to an application, a link map provides an association between a software variable name and its location in memory as assigned by the compiler. The application extraction module 82 determines which data objects from the application are defined by the compiler in the link map 84, and then builds a debug command script file 86. The debug command script file 86 is used as an input to a conventional source code debugging tool 90. The debugging tool 90 is subsequently used to further define each of the data objects associated with the application. In addition, the application extraction module 82 builds an execution script file 88 that is used by the source code debugger 90 to determine how to run the command script file

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86. The memory reporter 80 then initiates the source code debugger 90 which in turn executes the script files 86 and 88. The source code debugger 90 outputs a file containing each data item identified by the source code debugger 90. The application extraction module 82 reformats the output file provided by the source code debugger 90 in order to build an application requirements file 92 (see e.g. col. 6).

In summary, the explanation as set forth in the rejection of the claimed subject matter is believed proper and permissible.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Hien Vo, whose telephone number is (703)308-5253. The examiner can normally be reached on Monday-Friday from 9:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow, can be reached on (703)308-3126.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

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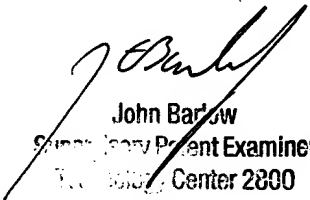
or faxed to:

(703) 308-7382 (for informal or draft  
communications, please label "PROPOSED" or  
"DRAFT")

Hand-delivered responses should be brought to Crystal Plaza 4, Arlington. VA.,  
Fourth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of  
this application should be directed to the Group receptionist  
whose telephone number is (703)308-0956.

**HIEN VO**  
December 04, 2003

  
John Barlow  
Senior Patent Examiner  
T. 6000 Center 2800